

AMENDED IN SENATE APRIL 28, 2003

AMENDED IN SENATE MARCH 26, 2003

SENATE BILL

No. 798

Introduced by Senator Cedillo

February 21, 2003

An act to amend Section 1351.2 of the Health and Safety Code, relating to health care service plans.

LEGISLATIVE COUNSEL'S DIGEST

SB 798, as amended, Cedillo. Mexican health plans.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Director of the Department of Managed Health Care. Existing law requires a health care service plan licensed under the laws of Mexico that elects to operate a health care service plan in this state to apply for licensure and comply with the act and applicable rules adopted by the director. A willful violation of the provisions governing health care service plans is a crime.

This bill would require the director to notify immediately a plan that has ceased to ~~be licensed~~ *operate legally* in Mexico that the plan is required to ~~be relicensed in~~ *comply with the laws of Mexico* or *become* licensed in California within a specified time period. The bill would require the director to issue an order requiring the plan to cease operations in California if the plan ~~is~~ *has not relicensed or licensed* ~~complied with either of those requirements~~. Because the bill would place additional requirements on a health care service plan, the willful violation of which would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1351.2 of the Health and Safety Code
2 is amended to read:

3 1351.2. (a) If a health care service ~~plan licensed under the~~
4 ~~laws of Mexico~~ *organization certified by the Mexican Minister of*
5 *Health* elects to operate a health care service plan in this state, the
6 plan shall apply for licensure as a health care service ~~plan~~
7 *organization* under this chapter by filing an application for
8 licensure in the form prescribed by the department and verified by
9 an authorized representative of the applicant. The ~~plan~~
10 *organization* shall be subject to the provisions of this chapter, and
11 the rules adopted by the director thereunder, as determined by the
12 director to be applicable. The application shall be accompanied by
13 the fee prescribed by subdivision (a) of Section 1356 and shall
14 demonstrate compliance with the following requirements:

15 (1) The ~~plan~~ *organization is constituted and operating*
16 ~~lawfully as a health care service organization under the laws of~~
17 *Mexico and, if required by Mexican law, is licensed as a health*
18 *care service plan by the Mexican Department of Insurance. If the*
19 *Mexican Department of Insurance determines that the*
20 *organization is not required to be licensed as a health care service*
21 *plan under the laws of Mexico, the applicant shall obtain written*
22 *verification from that department stating that the applicant is not*
23 *required to be a licensed health care service plan under the laws*
24 *of Mexico.*

25 (2) The ~~plan~~ *organization* offers and sells in this state only
26 employer-sponsored group plan contracts exclusively for the
27 benefit of citizens of Mexico legally employed in this state, and for
28 the benefit of their dependents regardless of nationality, that pay
29 for, reimburse the cost of, or arrange for the provision or delivery

1 of health care services that are to be provided or delivered wholly
2 in Mexico, except for the provision or delivery of those health care
3 services set forth in subparagraphs (A) and (B) of paragraph (4).

4 (3) Solicitation of plan contracts in this state is made only
5 through insurance brokers and agents licensed in this state or a
6 third-party administrator licensed in this state, each of which is
7 authorized by the plan to offer and sell plan group contracts.

8 (4) Group contracts provide, through a contract of insurance
9 between the ~~plan~~ *organization* and an insurer admitted in this state,
10 for the reimbursement of emergency and urgent care services
11 provided out of area as required by subdivision (h) of Section
12 1345.

13 (5) All advertising, solicitation material, disclosure statements,
14 evidences of coverage, and contracts are in compliance with the
15 appropriate provisions of this chapter and the rules or orders of the
16 director. The director shall require that each of these documents
17 contain a legend in 10-point type, in both English and Spanish,
18 declaring that the health care service plan contract provided by the
19 ~~plan~~ *organization* may be limited as to benefits, rights, and
20 remedies under state and federal law.

21 (6) All funds received by the ~~plan~~ *organization* from a
22 subscriber are deposited in an account of a bank organized under
23 the laws of this state or in an account of a national bank located in
24 this state.

25 (7) The ~~plan~~ *organization* maintains a tangible net equity as
26 required by this chapter and the rules of the director, as calculated
27 under United States generally accepted accounting principles, in
28 the amount of a least one million dollars (\$1,000,000). In lieu of
29 an amount in excess of the minimum tangible net equity of one
30 million dollars (\$1,000,000), the ~~plan~~ *organization* may
31 demonstrate a reasonable acceptable alternative reimbursement
32 arrangement that the director may in his or her discretion accept.
33 The ~~plan~~ *organization* shall also maintain a fidelity bond and a
34 surety bond as required by Section 1376 and the rules of the
35 director.

36 (8) The ~~plan~~ *organization* agrees to make all of its books and
37 records, including the books and records of health care providers
38 in Mexico, available to the director in the form and at the time and
39 place requested by the director. Books and records shall be made

1 available to the director no later than 24 hours from the date of the
2 request.

3 (9) The ~~plan~~ *organization* files a consent to service of process
4 with the director and agrees to be subject to the laws of this state
5 and the United States in any investigation, examination, dispute,
6 or other matter arising from the advertising, solicitation, or offer
7 and sale of a plan contract, or the management or provision of
8 health care services in this state or throughout the United States.
9 The ~~plan~~ *organization* shall agree to notify the director,
10 immediately and in no case later than one business day, if it is
11 subject to any investigation, examination, or administrative or
12 legal action relating to the ~~plan~~ *organization* or the operations of
13 the ~~plan~~ *organization* initiated by the government of Mexico or the
14 government of any state of Mexico against the ~~plan~~ *organization*
15 or any officer, director, security holder, or contractor owning 10
16 percent or more of the securities of the ~~plan~~ *organization*. The ~~plan~~
17 *organization* shall agree that in the event of conflict of laws in any
18 action arising out of the license, the laws of California and the
19 United States shall apply.

20 (10) The ~~plan~~ *organization* agrees that disputes arising from
21 the group contracts involving group contractholders and providers
22 of health care services in the United States shall be subject to the
23 jurisdiction of the courts of this state and the United States.

24 (b) The ~~plan~~ *organization* shall pay the application processing
25 fee and other fees and assessments set forth in Section 1356. The
26 director, by order, may designate provisions of this chapter and
27 rules adopted thereunder that need not be applied to a health care
28 service plan licensed under the laws of Mexico when consistent
29 with the intent and purpose of this chapter, and in the public
30 interest.

31 (c) If the plan ceases to ~~be licensed under the laws of~~ *operate*
32 *legally in* Mexico, the director shall immediately notify the plan
33 in writing that it is not in compliance with the provisions of this
34 section. If this occurs, a plan shall do all of the following:

35 (1) Provide the director with written proof that the plan has
36 ~~been relicensed under~~ *complied with* the laws of Mexico not later
37 than 45 days after the date the written notice is received by the plan.

38 (2) If, by the 45th day, the plan is unable to provide written
39 confirmation of *recertification as a health care service*
40 *organization and, if required by Mexican law, relicensure as a*

1 Mexican health care service plan, the director shall notify the plan
2 in writing that the plan is prohibited from accepting any new
3 enrollees or subscribers. The plan shall be given an additional 180
4 days to ~~be relicensed as a Mexican health care service plan or a~~
5 ~~California health care~~ *comply with Mexican law or to become a*
6 *licensed California health care service plan.*

7 (3) If, at the end of the 180-day notice period in paragraph (2),
8 the plan has not ~~been relicensed under~~ *complied with* the laws of
9 Mexico or California, the director shall issue an order that the plan
10 cease operations in California.

11 SEC. 2. No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section 17556 of
17 the Government Code, or changes the definition of a crime within
18 the meaning of Section 6 of Article XIII B of the California
19 Constitution.

